

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	8:10CR150
Plaintiff,)	
)	
vs.)	ORDER
)	
CESAR D. FRANCO,)	
)	
Defendant.)	

This matter is before the court on the motion to continue by the government (Filing No. 63). The government seeks a continuance of the trial of this matter which is scheduled for May 23, 2011. The court held a telephone conference with counsel on May 9, 2011. The government was represented by Special Assistant David M. Wear and the defendant, Cesar D. Franco (Franco), was represented by Jerry M. Hug. The parties agreed that this matter may be set for trial on May 31, 2011, and jointly moved for such a trial setting. Upon consideration, the motion will be granted.

IT IS ORDERED:

1. The motion to continue trial (Filing No. 63) is granted.
2. Trial of this matter is re-scheduled for **May 31, 2011**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **May 9, 2011, and May 31, 2011**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that the parties require additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(7)(A) & (B).

DATED this 9th day of May, 2011.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge